

TOWN OF BUENA VISTA, COLORADO  
ORDINANCE NO. 3  
(SERIES OF 2010)

**AN ORDINANCE OF THE BOARD OF TRUSTEES FOR THE TOWN OF  
BUENA VISTA, COLORADO, REPEALING AND REENACTING ARTICLE  
VI OF CHAPTER 11 AND ENACTING A NEW ARTICLE VII OF CHAPTER  
11 OF THE BUENA VISTA MUNICIPAL CODE REGARDING THE USE OF  
PUBLIC PLACES AND SPECIAL EVENTS IN PUBLIC PLACES**

WHEREAS, special events can interfere with vehicular and pedestrian traffic, including emergency responders; and

WHEREAS, unregulated special events on public streets, sidewalks and public rights-of-way have been known to be accompanied by significant public injuries and property damage; and

WHEREAS, the greater the number of participants, the greater the likelihood that a special event will interfere with vehicular and pedestrian traffic, and the greater the risk of public unrest; and

WHEREAS, the Board of Trustees, having considered the size and population of the Town, and the resources available to the Town, determines that special events with two hundred (200) or more participants should require a permit, so that the Town may take appropriate measures to ensure that the public health, safety and welfare is adequately protected; and

WHEREAS, courts have recognized the right of municipalities to enact reasonable time, place and manner restrictions related to special events such as those established herein while respecting and protecting the free speech rights of groups and individuals wishing to express their views; and

WHEREAS, it is reasonable and appropriate for the Town to enact the regulations in this ordinance to ensure the delivery of critical emergency services and to protect the public health, safety and welfare while also respecting and ensuring free speech rights; and

WHEREAS, the Board of Trustees, after proper public notice, held a public hearing on April 13, 2010 regarding this Ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE TRUSTEES FOR THE TOWN OF BUENA VISTA, COLORADO, THAT:**

Section 1. Article VI of Chapter 11 is hereby repealed and reenacted to provide as follows:

## **Use of Public Places**

### **Sec. 11-111. Definitions.**

As used in this Article, unless the context clearly requires a different meaning, the following words shall be defined as follows:

(1) *Town Administrator* means the Town Administrator of the Town of Buena Vista, or his or her designee.

(2) *Public park or recreation area* means a park or recreation area owned, leased, or under the control of the Town or other public entity, and shall include the Town's rodeo grounds, softball fields and tennis courts, but shall not include the Town's airport.

(3) *Public right-of-way* means any street, sidewalk, alleyway, or other right-of-way owned by the Town, but this term shall not include U.S. Highway 24.

(4) *Special event* means an organized procession or assemblage of two hundred (200) or more people requiring traffic control, the exclusive use of all or a portion of a public right-of-way, public park or recreation area, or other Town facility, or creating a public safety hazard. Examples of special events include but are not limited to walkathons, runs, marathons, trail rides, bicycle races, fairs, celebrations, rodeos, demonstrations, parades, aviation events and other similar activities.

### **Sec. 11-112. Closure of public rights-of-way; payment of costs; insurance.**

The Board of Trustees may authorize the partial or complete closure of designated portions of a public right-of-way if:

(1) A written application is submitted to the Town Administrator, containing such information as the Town Administrator deems necessary, and the application is approved by the Board of Trustees after recommendation by the Town Administrator.

(2) The applicant pays to the Town at the time he or she submits the application such application fee as may be established by the Board of Trustees, and the applicant agrees to pay upon request the actual costs to the Town in providing any services required in connection with the closure over and above normal municipal services. Such costs shall include without limitation any regular or overtime salaries, equipment and fuel.

(3) The applicant agrees to pay for and provide liability insurance in such amount and for such coverage as may be required by the Board of Trustees sufficient to protect the Town from any liability for any injuries or damages which may arise out of the closure or the Town's assistance in ensuring the safe conduct of the closure.

(4) The closure is implemented in a manner that will cause the least inconvenience to the public.

**Sec. 11-113. Use of public parks and recreation areas.**

Town-owned public parks and recreation areas may be reserved and used by groups, associations or similar organizations, by permit issued by the Town Administrator upon compliance with the following terms and conditions:

(1) Written application for a permit shall be submitted to the Town Administrator containing such information as the Town Administrator deems necessary to evaluate the proposed use.

(2) The applicant shall pay an application fee and agrees to pay upon request the actual costs to the Town in providing any additional municipal services as may be required in connection with the use. Additional services shall include any regular or overtime salaries of Town personnel, equipment usage and fuel.

(3) The applicant agrees to pay for and provide proof of liability insurance in an amount and for such coverage as may be required by the Town Administrator to protect the Town from any liability for any injuries or damages of any kind which may arise out of the use.

(4) The use shall be conducted in a manner that creates the least amount of disturbance to those persons residing near the park or recreation area and minimizes damage to public property. The applicant shall compensate the Town for all damage done to public property during the use.

**Sec. 11-114. Swimming or wading in public park waters.**

It is unlawful for any person to enter, swim or wade in any lake, stream, pond, irrigation ditch, reservoir or other body of water in a public park or recreation area unless the lake, stream, pond or other body of water has been designated by the Town Administrator as an area specifically set aside for swimming or wading. The Town Administrator may designate areas where persons may enter the bodies of water whenever he or she finds that recreational interests may be served without constituting a hazard to public safety, welfare, health and sanitation. This Section shall not apply to persons wading for the purpose of fishing or launching a boat or to any rescue or officially sanctioned demonstration operations.

**Sec. 11-115. Motor-powered watercraft.**

(a) It is unlawful to bring or operate any motor-powered watercraft upon any waterway or body of water within the Town; provided, however, that this Section shall not apply to any rescue or officially sanctioned demonstration operations.

(b) Each occupant of a nonmotor-powered watercraft shall wear a Coast Guard approved life jacket whenever the watercraft is upon any waterway or body of water within the Town.

**Sec. 11-116. Hours; extension; exceptions.**

Public parks and recreation areas shall be open daily to the public from 5 a.m. until 11 p.m. Only employees of the Town or the authority with jurisdiction over the public park or recreation area acting in the scope of their employment may remain at any other time; provided, however that:

(1) The Town or authority having jurisdiction over such public park or recreation area may, by permit or authorization first had or obtained, or by regulation duly posted in the area affected, extend to a later hour the nighttime closing hour with respect to particular recreational activities in such parks, parkways or areas; and

(2) Nothing contained in this Article shall prevent or make unlawful the conduct of or attendance at a nighttime athletic event or activity in areas set aside and lighted for such events or activities by or with the permission of the authority having jurisdiction of such public park or recreation area.

**Sec. 11-117. Prohibition against dog excrement in parks.**

It shall be unlawful for any dog owner to fail to remove and clean up any defecation or excrement deposited by a dog in a public park or recreation area. For the purpose of this Section, the terms *dog* and *dog owner* shall have the meaning described in Section 7-122 of this Code.

Section 2. A new Article VII of Chapter 11 is hereby added to provide as follows:

**Article VII**

**Special Events in Public Places**

**Sec. 11-120. Definitions.**

For purposes of this Article, terms shall have the same meaning as set forth in Section 11-111 of Article VI of this Chapter.

**Sec. 11-121. Permit required.**

Any person desiring to conduct a special event in the Town shall first obtain a permit from the Town Administrator. If a public right-of-way closure or use of a public park or recreation area is desired, the requirements of Sections 11-112 or 11-113 shall also apply, respectively.

**Sec. 11-122. Permit Application.**

(a) Any person desiring to sponsor or conduct a special event shall apply for a permit by filing a verified application with the Town Administrator.

(b) At a minimum, the application shall include the following information:

- (1) The applicant's name, address, and phone number;
- (2) The date and time of the event, including the estimated set-up period, the start time, the end time, and the estimated break-down and clean-up period;
- (3) A map showing the proposed location of the event, including a detailed map of the route, if applicable;
- (4) The nature of the event;
- (5) The estimated number of participants and animals, if any;
- (6) The estimated number of vehicles;
- (7) A clean-up plan;
- (8) A list of any previous event permits issued by the Town;
- (9) A statement as to whether the applicant has ever applied for and been denied, or had revoked, a parade, demonstration, or similar permit by the Town or any other jurisdiction and the grounds therefor;
- (10) A description of any planned amplified noise;
- (11) A statement as to whether the event will involve hazardous, combustible or flammable materials and, if so, the safeguards planned; and
- (12) Any other information requested by the Town Administrator relevant to either the criteria set forth in Section 11-123 or the possible conditions that may be imposed pursuant to Section 11-125 that will aid the

Town Administrator in deciding whether to issue the event permit and under what conditions.

(c) Applications shall be submitted not less than forty-eight (48) hours nor more than one (1) year before the event. The Town Administrator shall, upon a showing of good cause, consider an application that is filed after the filing deadline if there is sufficient time to process and investigate the application and obtain necessary police services for the event. Good cause may be demonstrated by a showing that the circumstance that gave rise to the application did not reasonably allow the applicant to file within the time prescribed. If the Town Administrator refuses to consider a late application, the Town Administrator shall inform the applicant in writing of the reasons therefor, and of the applicant's right of appeal.

(d) Each application shall be accompanied by a fee as set by the Board of Trustees, which fee shall defray the costs of processing the application.

#### **Sec. 11-123. Criteria for denial.**

(a) The Town Administrator shall approve an application and issue an event permit unless the Town Administrator determines, upon consideration of the application and other pertinent information, that:

(1) Information contained in the application or supplemental information obtained from the applicant is found to be false in any material detail;

(2) The applicant has failed to complete the application after having been notified of any additional information or documents required;

(3) Another event permit has already been issued, or an application has been received prior in time, to hold another event on the same date and time, or so close in time and place as to cause undue traffic congestion, or as to burden the Town's ability to meet the needs of police, fire or other emergency services to the remainder of the Town;

(4) The time, route or size of the event will substantially interrupt the safe and orderly movement of traffic on or contiguous to the event site or route or will disrupt the use of a public right-of-way at a time when it is usually subject to traffic congestion;

(5) The size, nature or location of the event will present a substantial risk to the health or safety of the public or participants in the event or other persons;

(6) The size of the event will require diversion of so great a number of police officers to ensure that participants stay within the

boundaries or route of the event, or to protect participants in the event, as to prevent normal protection to the rest of the Town; provided that nothing herein authorizes denial of a permit because of the need to protect participants from the conduct of others, if reasonable permit conditions can be imposed to allow for adequate protection of participants with the number of police officers available to police the event;

(7) The location of the event will substantially interfere with any construction or maintenance work scheduled to take place on or near a public right-of-way or with any previously issued public right-of-way permit;

(8) The event, as described in the application, would violate any applicable law;

(9) The applicant has failed to pay costs, fees or deposits for any previous event permit; or

(10) The applicant has failed to abide by the terms or conditions of any previous event permit.

(b) When the grounds for denial of an application can be corrected by altering the date, time, duration, route or location of the event, the Town Administrator shall, instead of denying the application, conditionally approve the application upon the applicant's acceptance of appropriate corrective conditions or by making other reasonable modifications to the event.

#### **Sec. 11-124. Issuance.**

Within seven (7) days of receipt of a complete application for an event permit, the Town Administrator shall consider the applicable criteria and approve, conditionally approve or deny the application. If the application is denied, the Town Administrator shall inform the applicant in writing of the grounds for denial and the applicant's right of appeal. If the application is approved, the Town Administrator shall issue the event permit, including any conditions.

#### **Sec. 11-125. Conditions.**

The Town Administrator may impose reasonable conditions on any event permit necessary to protect the safety of persons and property and the control of traffic, including but not limited to the following:

(1) Alteration of the date, time, duration, frequency, route or location of the event;

(2) Conditions concerning the area of assembly and disbanding of parades or other events occurring along a route;

(3) Conditions concerning accommodation of available parking, pedestrian or vehicular traffic, including restricting the event to only a portion of a public right-of-way;

(4) Requirements for the use of traffic cones, barricades or other traffic-control devices to be provided, placed and removed by the permittee at its expense;

(5) Requirements for provision of emergency access and first aid or sanitary facilities;

(6) Requirements for arrangement of supplemental fire protection or law enforcement personnel to be present at the event at the permittee's expense;

(7) Requirements for use of event monitors and providing notice of permit conditions to event participants;

(8) Restrictions on the number and type of vehicles, animals or structures at the event and inspection and prior approval of floats, structures and decorated vehicles for fire safety;

(9) Requirements for use of trash receptacles, cleanup and restoration of property;

(10) Restrictions on use of amplified sound;

(11) A requirement that notice be provided to the property owners of property adjacent to any affected public property;

(12) Compliance with any applicable law and obtaining any other legally required permits or licenses; and

(13) Designation of a contact person with decision-making authority who will be continuously available to law enforcement personnel and present at the event.

#### **Sec. 11-126. Insurance.**

(a) In addition to any other condition allowed by Section 11-125, the Town Administrator may require the applicant to possess liability insurance to protect against loss from liability imposed by law for damages for bodily injury or property damage arising from the event. The Town Administrator shall determine whether to require such insurance, and the amount of insurance that shall be required, based upon the considerations routinely taken into account by the Town in evaluating loss exposures, including, without limitation, whether the event poses a substantial



risk of damage or injury due to the anticipated number of participants, the nature of the event and activities involved and the physical characteristics of the proposed site or route. Such insurance shall name the Town and its officers, employees and agents as additional insured's.

(b) A copy of the policy or a certificate of insurance along with all necessary endorsements shall be filed with the Town Administrator no less than five (5) days before the event, or within forty (48) hours after approval by the Town, whichever is later.

**Sec. 11-127. Duties of permittee.**

(a) The permittee shall comply with all terms and conditions of the event permit.

(b) The permittee shall ensure that the person leading or in charge of the event is familiar with every provision of the event permit and carries the event permit on his or her person for the duration of the event.

(c) Immediately following the completion of the event, the permittee shall ensure that the area used for the event is cleaned and restored to the same condition as existed prior to the event. If the property used for the event has not been properly cleaned or restored, the permittee shall be required to reimburse the Town for any costs incurred by the Town to clean or restore the area.

**Sec. 11-128. Revocation.**

(a) The Town Administrator may, at any time prior to an event, revoke or terminate a permit that has been issued for the event if conditions change so that the application could have been denied in the first instance.

(b) The Town Administrator may revoke an event permit during the course of the event if continuation of the event presents a clear and present danger to the participants or the public health, safety or welfare.

(c) The Town Administrator may revoke the permit and terminate the event during the course of the event for noncompliance with any term or condition of the event permit.

**Sec. 11-129. Appeal.**

(a) Any decision of the Town Administrator under this Article may be appealed to the Board of Trustees by filing a written notice of appeal, setting forth the grounds for appeal, within five (5) days after the decision.

(b) The Board of Trustees shall review the appeal and issue a written

decision no later than two regular meetings after the filing of the appeal. The applicant and the Town Administrator may present written evidence or argument to assist the review. The Board of Trustees' decision shall be final, subject only to judicial review.

(c) If an appeal is properly filed, but a decision by the Board of Trustees would not be due prior to twenty-four (24) hours before the start of the event, and the Board of Trustees has not notified the applicant that the Board of Trustees will provide an expedited decision prior to twenty-four (24) hours before the start of the event, the applicant may seek judicial review with no further administrative review.

**INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED** this 13th day of April, 2010.

**THIS ORDINANCE SHALL BECOME EFFECTIVE THIRTY DAYS FROM ADOPTION.**

TOWN OF BUENA VISTA, COLORADO

By: *Cara Russell*  
Mayor, Cara Russell

ATTEST:

*Diane Spomer*  
Town Clerk, Diane Spomer

(SEAL)